



MAYOR AND COUNCIL AGENDA

NO. **16** DEPT.: Community Planning and Development Services
STAFF CONTACT: Somer Cross, Planner II

DATE PREPARED: 8/30/05
FOR MEETING OF: 9/12/05

SUBJECT: Authorization to file a text amendment regarding setback, height, and impervious surface coverage requirements in the residential districts.

RECOMMENDATION: Authorize staff to file text amendment regarding setback, height, impervious surface and other requirements in the residential districts.

SUMMARY:

The Mayor and Council met in July to address the issues of mansionization. At that meeting, staff recommended potential changes to the Zoning Ordinance, including reducing the maximum height and requiring additional setbacks in some residential areas. The Mayor and Council also raised concerns with regard to impervious surfaces. They then instructed staff to prepare a text amendment to address those issues sooner than scheduled as part of the larger zoning ordinance revision.

The text amendment has been drafted to meet the initial concerns of the Mayor and Council regarding mansionization. Additional analysis and text changes may occur during the larger effort of rewriting the zoning ordinance. Until the comprehensively reviewed zoning ordinance is adopted, these changes would apply to limit large-scale redevelopments, which apply for building permits in the interim period.

In particular, the proposed text amendment includes the following modifications to the existing Zoning Ordinance:

1. An inclusion of an impervious surface limitation in the table of bulk standards for all residential districts.
2. A reduction of the maximum height limitation from 35' to 30' in three zoning districts, R-60, R-75, and R-90.
3. An amendment to the definition of height, to measure gable roofs to the peak, instead of the midpoint of eaves.
4. An additional side setback requirement of 2' for every 1' in height of a residential structure over 25'.

DISCUSSION:

The city of Rockville has seen a rise in the number of demolitions and substantially altered residential structures in the past few years. According to permit records in the Inspection Services Division (ISD), the number of altered structures (not including porch additions) has risen 76% from 1999 to 2005. In addition, residential demolitions have dramatically increased in the past two years. Based on current housing trends, and the extent to which the city is already built-out, over 100 houses are expected to undergo alterations that will change the footprint or height of a house and more than 10 houses are expected to be demolished in the next year alone. This continued demolition or substantial alteration of single-family homes and the resulting construction of significantly larger homes could further erode the City's neighborhoods' characteristics while the City plans solutions.

1. Neighborhood Distinction Concerns

As the zoning code currently exists, immediate modification would apply a "blanket" regulation on each zoning district. Though the zoning code has permitted the same development standards (height, bulk, setbacks) in all zones classified the same, market trends have led to the creation of different housing styles, varying by neighborhood, not by zoning classification. The imposition of a set impervious surface or standard bulk regulations could have different affects in different neighborhoods.

Through rough calculations, development differences among different neighborhoods appear. Though a 35' building height has been allowed throughout the city, the average size house in some neighborhoods falls far short of that size. For example, the Twinbrook neighborhood housing averages only 20' to 25' feet high, while Lincoln Park homes are between 25-29' high. Even a blanket 30' height limitation in all R-60 zones might be greater than the character of the Twinbrook neighborhood calls for, while creating consistent character in Lincoln Park.

An alternative solution to the blanket regulations would be to place overlay districts in each neighborhood. Overlay districts would allow for distinct regulations to maintain the character of the likely affected neighborhoods. These new regulations, however, would take considerable time to develop, as they should be geared to the particular issues of each community. These districts should be developed in close coordination with each neighborhood. Thus, they will not be ready for implementation immediately; but could be incorporated into the larger zoning ordinance revision.

2. Particular Impervious Surface Concerns

At the July meeting, during the mansionization discussion, the Mayor and Council addressed their concerns about impervious surface coverage, in addition to the problems of bulk appearance. When a house is constructed or reconstructed at a size much larger than its neighboring properties, the new construction can cover a greater lot area than the previous structure. The impervious surface regulations, as drafted, are a limitation on the amount of lot a reconstructed structure can cover. The proposed coverage limitations consider existing main structure lot coverage limitations, accessory structure rear lot coverage limitations, and provide an additional allowance for other impervious features on a lot.

Existing regulations provide main structure lot coverage limitations (ranging from 15-40%) and accessory structure rear yard coverage limitations (ranging from 15-25%) for each residential zoning district. Without modifying these numbers, an additional 10% lot coverage for accessory impervious features (not considered structures), such as sidewalks and driveways, should be allowed in order to guard against a large-scale rise in nonconformities throughout the city. If the existing main and accessory structure coverage limitations are maintained, impervious surface coverage allowances, based on those figures, range from 35 to 70%, depending on the zone. These are the numbers reflected in the text amendment language.

National numbers seem to place impervious surface limitations between 15 and 55%. The majority of figures range around 35%. As stated above, the currently calculated numbers for Rockville impervious surface coverage limitations range between 35-70%. These restrictions would place some restriction on new development from fully developing over a lot. These current figures, however, 1) would be much higher than normally accepted impervious surface coverage limitations and 2) would need to provide adequate exemptions to provide for any alteration to existing surfaces and prevent a large number of nonconformities. Such an exemption is provided in these amendments.

With regard to impervious surface limitations, regulations should clarify if the concern for impervious surface coverage is 1) lot coverage appearances or 2) stormwater management. Stormwater management regulations do not consider such things as uncovered pools because there is little run off. Lot coverage appearance regulations, however, would consider a pool because there are fewer natural features in a yard. If the purpose of these amendments is to maintain a natural vegetative appearance in residential yards, the best solution may be a vegetative coverage requirement, instead of an impervious surface limitation. As drafted, the impervious surface coverage regulations use the same definition and consider the same structures / paving impervious as the sediment control regulations do.

Like height and setbacks, though the zoning districts have allowed greater lot coverage, each neighborhood has developed differently. As stated in the mansionization white paper discussion, newly developed communities are not an issue. New residents in new housing developments expect a larger scale of housing development than older communities. Newer planned developments have clustered large housing on smaller lots to provide open space elsewhere. King Farm, for example, has an average lot impervious coverage of 60%. Croyden Park, on the other hand has developed at an average 33% impervious coverage, Twinbrook at 25%, and Lincoln Park at 17%, though all three are zoned R-60 and provide for 35% building coverage alone. The proposed amendment allows future planned communities to cluster impervious coverages as long as the entire planned parcel meets the required percentage for the applicable district.

3. Height / Bulk Amendments

The proposed height and setback modifications would limit the appearance of mass and bulk of large structures. The towering appearance of reconstructed mansionized houses is the primary concern of neighbors. The regulations proposed would reduce the maximum size of a house and minimize the imposition of a large house on its neighbors. These amendments would apply to the primary structure on a lot, while the accessory structure text amendments also proposed at this hearing, would apply additional lot coverage and setback requirements to accessory structures.

Amendment Adoption

Adoption of this ordinance could not occur until January or February of 2006. The ordinance must undergo a list of review processes including Planning Commission review in October, Public Hearing and D&I in November and December, and finally adoption in January or February. In the interim, a moratorium on new development may be proposed to ensure that all new construction and re-construction meet the requirements of this amendment.

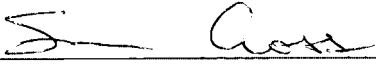
The mansionization text amendment presented tonight is meant to meet the immediate concerns of the Mayor and Council. Throughout the review process for this text amendment, and throughout the zoning revision white paper discussions planned in the next months, the analysis may change. Upon further review, different solutions may be determined to better fit the existing development scheme of the City. Future amendments may be made with the comprehensive zoning revision.

Staff seeks direction to pursue the adoption of this language. Additional information on the mansionization issue can be found in the Mansionization White Paper presented to the Mayor and Council in July and in the mansionization moratorium agenda item of this same meeting.

Change in Law or Policy: Amends the current zoning regulations for residential structures.

Next Steps: Mayor and Council authorize filing of text amendment.

PREPARED BY:


Somer Cross, Planner II

APPROVED BY:


Jim Wasilak, Chief of Planning

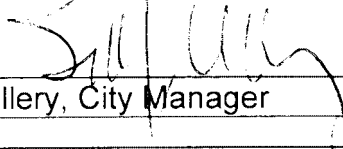
9/7/05
Date

APPROVED BY:


Arthur D. Chambers, AICP, Director, CPDS

9/7/05
Date

APPROVED BY:


Scott Ullery, City Manager

9/5/05
Date

LIST OF ATTACHMENTS:

1. Proposed text amendment

**PROPOSED TEXT AMENDMENT TO THE ZONING ORDINANCE
CHANGES TO LIMIT MANSIONIZATION AND IMPERVIOUS SURFACE
COVERAGE**

Summary:

The following are proposed changes to the existing zoning code to limit the problems associated with mansionization. Text in [brackets] indicates text to be deleted; underlined text indicates text to be added.

There are three categories of changes to minimize and clarify the regulations regarding mansionization. These are:

1. Imposing impervious surface coverage regulations (which apply to all residential zones).
2. Imposing second story setback requirements (which apply only to R-60, R-75, and R-90).
3. Reducing height regulations and modifying the definition of height measurement to impose a greater restriction on gable roofs (the regulations apply only to R-60, R-75, and R-90 while the definition applies to all developments).

These changes will have the following effects:

- Establishment of regulations limiting the percentage of impervious surface coverage allowed on a lot within all residential zones. For these amendments, impervious surfaces shall be the same features as considered impervious for purposes of the sediment control regulations of the code.
- The figures imposed for impervious surface limitations are calculated after consideration of existing main building maximum lot coverage, accessory building rear lot coverage (assuming that the rear yard is a maximum 75% of the total lot), and the addition of a reasonable percentage for miscellaneous impervious surfaces (10%) then rounded up to the next highest division of 5.
- Exceptions from the requirements of impervious surface coverage requirement are provided for modification to existing impervious surfaces when the current coverages exceed the maximum allowed under this amendment.
- Requirement that newly constructed main building second story additions be setback an additional 2' side setback for every 1' above 25' in height they propose. This would apply within three small single-family residential districts (R-60, R-75, and R-90). This requirement will reduce the appearance of bulk on the structure and provide greater privacy to neighbors.
- Reduction of the maximum height for all main buildings in three small single-family residential districts (R-60, R-75, and R-90) to 30'.
- Modification of the definition of height to be measured from the peak of gable roofs.

PART I

Impervious Surface Regulations

Amend 25-1, “Definitions” as follows:

Impervious Surface means the area covered by compacted soil or gravel, paving, structures or other features that prevent the passage of stormwater into the soil. Impervious area also includes that portion of land surface covered by an elevated structure, such as a bridge or deck, regardless of whether the land surface itself remains porous or impervious.

Impervious Surface Coverage means the percentage of a lot consisting of impervious surface. The total area of impervious coverage is divided by the total lot area then multiplied by 100.

Amend 25-311, “Tables of development standards” as follows:

Sec. 25-311. Tables of development standards.

I. DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONES

		MAIN BUILDINGS										ACCESSORY BUILDINGS						
		Setbacks										Setbacks						
Zone	Max. Impervious Surface Lot Coverage	Min. Zone Area (Aggregate of Contiguous Lots)	Min. Lot Area	(1) Max. Lot Coverage	Front	(6) Minimum Where Established Setback Exceeds Normal	(2) Side Street Abutting	Land Abutting	Rear (Feet)	Minimum Lot Width	Maximum Height	Side	Side	Side	Rear Yard Coverage	Maximum Height		
R-E	40%	--	40,000 sq. ft.	15%	50'	Established setback up to 100'	30'	20'	50'	150'	--	40'	30'	30'	15%	1	15'	
R-S	55%	--	20,000 sq. ft.	25% (8)	35'	Established setback up to 100'	25'	13'	35'	100'	--	40'	25'	30'	25%	1	15'	
R-150	50%	--	15,000 sq. ft.	25%	35'	Established setback up to 60'	30'	13'	30'	90'	--	40'	30'	30'	15%	1	15'	
R-90	55%	--	9,000 sq. ft.	25%	30'	Established setback up to 60'	20'	11'	25'	80'	--	35'	20'	30'	25%	1	15'	
R-75	65%	--	7,500 sq. ft.	35%	25'	Established setback up to 50'	20'	9'	20'	70'	40'	35'	20'	30'	25%	1	15'	

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R-60	65%	--	6,000 sq. ft.	35%	25'	Established setback up to 50'	20'	8'	20'	60'	35'	35'	20'	3'	3'	25%	1	15'
(4) R-60 Qualifying Under Size Lots	65%	--	5,000 sq. ft.	35%	25'	Established setback up to 50'	20'	7'	20'	50'	35'	--	20'	3'	3'	25%	1	15'
R-40	70%	--	4,000 sq. ft.	40%	25'	Established setback up to 50'	25'	10'	20'	40'	35'	--	20'	3'	3'	25%	1	15'
R-40 Detached Dwelling Unit	65%	--	6,000 sq. ft.	35%	25'	Established setback up to 50'	20'	8'	20'	60'	35'	--	20'	3'	3'	25%	1	15'
R-30	35%	--	3,000 sq. ft. per apartment d.u. 4,000 sq. ft. per townhouse	25%	25'	Established setback	25'	30'	(3) 1/2 building height but not less than 30'	150'	3	45'	--	--	--	--	--	--
R-30 Development Option on Lots of 5 or More Acres	35%	--	3,000 sq. ft. per apartment d.u. 4,000 sq. ft. per townhouse	25%	(3) 25' plus 3' for each 1' in building height over 45'	Established setback	(3) 30' plus 1' for each 1' in building height over 45'	(3) 1/2 building height plus 3' for each 1' in building height over 45'	150'	7	75'	--	--	--	--	--	--	--

(C)

R-20	40%	--	2,000 sq. ft. per d.u.	30%	25'	Established setback	(3) 1/2 building height but not less than 30'	150'	--	3	45'	--	--	--	--	--	--
R-20 Development Option on Lots of 5 or More Acres	40%	--	2,000 sq. ft. per d.u.	30%	(3) 25'; plus 3' for each 1' in excess building height over 45'	Established setback	(3) 1/2 building height plus 3' for each 1' in building height over 45'	150'	--	7	75'	--	--	--	--	--	--
R-H	40%	4 acres	Efficiency: 600 sq. ft. 1-bedroom: 650 sq. ft. 2-bedroom: 690 sq. ft. 3-bedroom: 880 sq. ft.	30%	30'	--	30'	30'	200'	--	110'	--	--	--	--	--	--

TABLE INSET:

(1) Includes accessory buildings.
(2) A street at a side lot shall be deemed a side street only if the lot abutting the rear of the subject lot does not front on the street, otherwise the front setback requirement shall apply.
(3) Building height refers to portion of building proximate to the point of setback measurement.
(4) Qualifying undersize lots are those with a new area of less than six thousand (6,000) square feet but at least five thousand (5,000) square feet, or with a width at the front building line of less than sixty (60) feet but at least fifty (50) feet which were shown on a plat or deed recorded prior to October, 1957. (Ord. 6-76, 3/15/76)

(5) Two (2) side setbacks are required unless otherwise specified.
(6) In cases where the majority of lots located on one side of a street between two (2) intersecting streets are occupied by buildings having a front setback different from the normal specified, any building hereafter shall conform to the setback line up to the maximum specified.
(7) Fifty (50) foot setback required from right-of-way of limited access, major or arterial highway unless the lot or lots are shown on an approved preliminary subdivision plan or an approved final record plat prior to January 1, 1980.
(8) Except as provided for in section 25-361(c)(3).
(9) For lots in developments under the special development procedures of Art. XIII, the lot/impervious surface coverage shall be calculated for the entire project area and allocated to each lot at the time a Preliminary Plan of subdivision is approved.

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Add 25-335, “Existing Impervious Surface Exemption” as follows:

Sec. 25-335. Existing Impervious Surface Exception

Lots which exceed the required impervious surface coverage limitation, as provided in Table 25-311, at the time of adoption of this amendment, shall be deemed to be conforming. Existing impervious areas may be repaired, replaced, or relocated provided they do not exceed the percentage impervious surface area existing on the lot at the time this amendment is adopted.

PART II

SECOND STORY SETBACK AND HEIGHT REGULATION MODIFICATIONS

Amend 25-1, “Definitions” as follows:

Building, height of means, unless otherwise specified herein, the vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of roof surface of a flat roof; to the deck line of a mansard roof; and to the [mean height level between eaves and ridge] peak of a gable, hip or gambrel roof; except that if a building is located on a terrace, the height above the street grade may be increased by the height of the terrace. In the case of a building set back from the street line thirty-five (35) feet or more, the building height is measured from the average elevation of finished ground surface along the front of the building. On a corner lot exceeding twenty thousand (20,000) square feet in area, the height of the building may be measured from either adjoining curb grade. For lots extending through from street to street, the height may be measured from either curb grade, provided that the maximum height permitted on the upper street may extend back from such street to a distance of one hundred fifty (150) feet from the lower street at which point the maximum height shall be measured from the lower street.

Amend 25-311, "Tables of development standards" as follows:

			MAIN BUILDING							ACCESSORY BUILDING				
			Minimum Setback Requirements (7)							Minimum Setback Requirements				
	Minimum Zone Area (Aggregate of Contiguous Lots)	Minimum Lot Area	(1) Minimum Lot Coverage	Front	(6) Minimum Where Established Setback Exceeds Normal	(2) Side	Rear (Feet)	Minimum Lot Width	Maximum Height	Side	Land Abutting	Rear Yard Coverage	Not More Than Stories	Not To Exceed
Zone														
R-90	--	9,000 sq. ft.	25%	30'	Established setback up to 60'	20' (10)	11' (10)	25'	--	80'	3'	25%	1	15'
R-75	--	7,500 sq. ft.	35%	25'	Established setback up to 50'	20' (10)	9' (10)	20'	--	70'	3'	25%	1	15'
R-60	--	6,000 sq. ft.	35%	25'	Established setback up to 50'	20' (10)	8' (10)	20'	--	60'	3'	25%	1	15'
(4) R-60 Qualifying Undersize Lots	--	5,000 sq. ft.	35%	25'	Established setback up to 50'	20' (10)	7' (10)	20'	--	50'	3'	25%	1	15'

TABLE INSET:

(1) Includes accessory buildings.
(2) A street at a side lot shall be deemed a side street only if the lot abutting the rear of the subject lot does not front on the street, otherwise the front setback requirement shall apply.
(3) Building height refers to portion of building proximate to the point of setback measurement.
(4) Qualifying undersize lots are those with a new area of less than six thousand (6,000) square feet but at least five thousand (5,000) square feet, or with a width at the front building line of less than sixty (60) feet but at least fifty (50) feet which were shown on a plat or deed recorded prior to October, 1957. (Ord. 6-76, 3/15/76)
(5) Two (2) side setbacks are required unless otherwise specified.
(6) In cases where the majority of lots located on one side of a street between two (2) intersecting streets are occupied by buildings having a front setback different from the normal specified, any building hereafter shall conform to the setback line up to the maximum specified.
(7) Fifty (50) foot setback required from right-of-way of limited access, major or arterial highway unless the lot or lots are shown on an approved preliminary subdivision plan or an approved final record plat prior to January 1, 1980.
(8) Except as provided for in section 25-361(c)(3).
(9) SEE ABOVE
(10) An additional 2' to the side yard setback is required for each 1' of height above 25' up to the maximum allowable height in the zone.

Add 25-335.1, “Additional setbacks” as follows:

Sec. 25-335.1. Additional setbacks

- (a) The living or habitable stories above 25’ in structurally altered or newly constructed residential dwellings shall be differentiated from the lower floor(s), by being setback from the lower story/stories in a home by no less than 2 feet, for each foot above 25’, as provided in the “The Table of Development Standards,” § 25-311 (10), and shall be centered over the ground floor when not prohibited by required engineering practices.
- (b) Newly constructed and re-constructed demolished homes may meet this requirement by setting back the first story to the level required for second story construction, to create a level plane.
- (c) Exceptions.
 - (1) Attic Conversion. For the purpose of setback determination, a converted attic space shall have the same setbacks as the story directly below it in all residential districts. No exterior changes to the existing roofline of the structure is allowed except for the provision of a reasonable number of egress windows or doors.
 - (2) First Floor Roof Eave Line. The additional side yard setback provided in Table 25-311(10), shall not be required where the eave line of the roof, at the façade (or facades in the case of a lot with multiple fronts), is brought down to the first floor eave line. Dormers shall not make up more than two-thirds (2/3) of the second floor façade width. The only projections allowed into the additional side yard setback area are roof overhangs.
 - (3) Variance. The Board of Appeals may reduce the required additional side yard setback to not less than that required for a one-story building; provided, that prior to approving such reduction, the Board of Appeals shall make all of the following findings:
 - a. Such reduction is requested in connection with the improvement or expansion of an existing structure.
 - b. Because of the size, location, configuration or topography of the subject parcel, or because of the location or design of the existing structure to be improved or expanded, compliance with the prescribed additional side yard setback requirements would result in a practical difficulty for the property owner or developer. Such difficulty may result either from the cost of improving the property in compliance with the prescribed regulations or from the need to use inappropriate architectural design to do so.
 - c. Grant of a variance will not have a significant adverse impact upon adjoining or nearby property owners. In making such finding, consideration shall be given, but not limited, to the privacy of adjoining or nearby properties and the impact upon solar access, sunlight, air and open space enjoyed by such properties.

- d. The proposed reduction of setback requirements is the minimum necessary to alleviate the practical difficulty experienced by the property owner or developer as the result of the additional side yard setback requirement. In determining whether such practical difficulty exists, or would be alleviated by a reduction of the side yard requirements, the Board of Appeals may consider not only the improvement proposed by the applicant, but also the availability of reasonable alternate designs without requiring excessive costs to the applicant.
- e. The proposed reduction is consistent with the Master Plan and the goals of this chapter.

Granting of the variance may be made subject to such reasonable conditions as the Board of Appeals may deem necessary to protect adjoining or nearby properties, to insure consistency with the Master Plan and this chapter and to insure development consistent with the intent of this section. The Board of Appeals may grant a reduction less than that requested by the applicant where deemed appropriate.